

Senate Engrossed House Bill

**State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
2004**

CHAPTER 180

HOUSE BILL 2383

AN ACT

**AMENDING SECTIONS 39-123 AND 39-124, ARIZONA REVISED STATUTES; RELATING TO
PUBLIC RECORDS.**

(TEXT OF BILL BEGINS ON NEXT PAGE)



1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 39-123, Arizona Revised Statutes, is amended to
3 read:

4 39-123. Information identifying a peace officer, justice,
5 judge, commissioner, public defender or prosecutor;
6 confidentiality; definitions

7 A. Nothing in this chapter requires disclosure from a personnel file
8 by a law enforcement agency or employing state or local governmental entity
9 of the home address or home telephone number of a peace officer as defined
10 in section 13-105, a justice, a judge, a commissioner, a public defender or
11 a prosecutor. ~~This exemption also applies to a photograph of a peace officer~~
12 ~~who is serving in an undercover capacity or who is scheduled to serve in an~~
13 ~~undercover capacity within sixty days.~~

14 B. The agency or governmental entity may release the information in
15 subsection A of this section only if either:

16 1. The person consents in writing to the release.

17 2. The custodian of records of the agency or governmental entity
18 determines that release of the information does not create a reasonable risk
19 of physical injury to the person or the person's immediate family or damage
20 to the property of the person or the person's immediate family.

21 C. A LAW ENFORCEMENT AGENCY MAY RELEASE A PHOTOGRAPH OF A PEACE
22 OFFICER IF EITHER:

23 1. THE PEACE OFFICER HAS BEEN ARRESTED OR HAS BEEN FORMALLY CHARGED
24 BY COMPLAINT, INFORMATION OR INDICTMENT FOR A MISDEMEANOR OR A FELONY
25 OFFENSE.

26 2. THE PHOTOGRAPH IS REQUESTED BY A REPRESENTATIVE OF A NEWSPAPER FOR
27 A SPECIFIC NEWSWORTHY EVENT UNLESS:

28 (a) THE PEACE OFFICER IS SERVING IN AN UNDERCOVER CAPACITY OR IS
29 SCHEDULED TO BE SERVING IN AN UNDERCOVER CAPACITY WITHIN SIXTY DAYS.

30 (b) THE RELEASE OF THE PHOTOGRAPH IS NOT IN THE BEST INTEREST OF THIS
31 STATE AFTER TAKING INTO CONSIDERATION THE PRIVACY, CONFIDENTIALITY AND SAFETY
32 OF THE PEACE OFFICER.

33 (c) AN ORDER PURSUANT TO SECTION 28-454 IS IN EFFECT.

34 D. THIS SECTION DOES NOT PROHIBIT THE USE OF A PEACE OFFICER'S
35 PHOTOGRAPH THAT IS EITHER:

36 1, USED BY A LAW ENFORCEMENT AGENCY TO ASSIST A PERSON WHO HAS A
37 COMPLAINT AGAINST AN OFFICER TO IDENTIFY THE OFFICER.

38 2. OBTAINED FROM A SOURCE OTHER THAN THE LAW ENFORCEMENT AGENCY.

39 ~~E.~~ E. This section does not apply to a certified peace officer who
40 is no longer employed as a peace officer by a state or local government
41 entity.

42 ~~D.~~ F. For the purposes of this section:

43 1. "Commissioner" means a commissioner of the superior court.

1 2. "Judge" means a judge of the United States district court, the
2 United States court of appeals, the United States magistrate court, the
3 United States bankruptcy court, the Arizona court of appeals, the superior
4 court or a municipal court.

5 3. "Justice" means a justice of the United States or Arizona supreme
6 court or a justice of the peace.

7 4. "Prosecutor" means a county attorney, a municipal prosecutor, the
8 attorney general or a United States attorney and includes an assistant or
9 deputy United States attorney, county attorney, municipal prosecutor or
10 attorney general.

11 5. "Public defender" means a federal public defender, county public
12 defender, county legal defender or county contract indigent defense counsel
13 and includes an assistant or deputy federal public defender, county public
14 defender or county legal defender.

15 Sec. 2. Section 39-124, Arizona Revised Statutes, is amended to read:

16 39-124. Releasing information identifying a peace officer,
17 justice, judge, commissioner, public defender or
18 prosecutor; violations; classification; definitions

19 A. Any person who is employed by a state or local government entity
20 and who, in violation of section 39-123, knowingly releases the home address
21 or home telephone number of a peace officer as defined in section 13-105, a
22 justice, a judge, a commissioner, a public defender or a prosecutor with the
23 intent to hinder an investigation, cause physical injury to a peace officer,
24 justice, judge, commissioner, public defender or prosecutor or the peace
25 officer's, justice's, judge's, commissioner's, public defender's or
26 prosecutor's immediate family or cause damage to the property of a peace
27 officer, justice, judge, commissioner, public defender or prosecutor or the
28 peace officer's, justice's, judge's, commissioner's, public defender's or
29 prosecutor's immediate family is guilty of a class 6 felony.

30 B. Any person who is employed by a state or local government entity
31 and who, in violation of section 39-123, knowingly releases a photograph of
32 a peace officer ~~who is serving in an undercover capacity or who is scheduled~~
33 ~~to serve in an undercover capacity within sixty days~~ with the intent to
34 hinder an investigation, cause physical injury to a peace officer or the
35 peace officer's immediate family or cause damage to the property of a peace
36 officer or the peace officer's immediate family is guilty of a class 6
37 felony.

38 C. For the purposes of this section:

39 1. "Commissioner" means a commissioner of the superior court.

40 2. "Judge" means a judge of the United States district court, the
41 United States court of appeals, the United States magistrate court, the
42 United States bankruptcy court, the Arizona court of appeals, the superior
43 court or a municipal court.

44 3. "Justice" means a justice of the United States or Arizona supreme
45 court or a justice of the peace.

1 4. "Prosecutor" means a county attorney, a municipal prosecutor, the
2 attorney general or a United States attorney and includes an assistant or
3 deputy United States attorney, county attorney, municipal prosecutor or
4 attorney general.

5 5. "Public defender" means a federal public defender, county public
6 defender, county legal defender or county contract indigent defense counsel
7 and includes an assistant or deputy federal public defender, county public
8 defender or county legal defender.

APPROVED BY THE GOVERNOR MAY 3, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 3, 2004.



Passed the House March 11, 2004,

Passed the Senate April 14, 2004,

by the following vote: 47 Ayes,

by the following vote: 30 Ayes,

10 Nays, 3 Not Voting

0 Nays, 0 Not Voting

Jake Flake
Speaker of the House

Klu Blunth
President of the Senate

Norman L. Moore
Chief Clerk of the House

Chaimin Bellinger
Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR**

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE**

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

H.B. 2383

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

April 27, 2004,

by the following vote: 51 Ayes,

4 Nays, 5 Not Voting

Jake Flake
Speaker of the House
Norman L. Moore
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

27th day of April, 2004,

at 1:28 o'clock P. M.

Jennifer Upbama
Secretary to the Governor

Approved this 3 day of

May, 2004,

at 2:00 o'clock P. M.

J. R. Nagle
Governor of Arizona

H.B. 2383

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 3 day of May, 2004,

at 3:51 o'clock P. M.

Janice K. Brewer
Secretary of State